

EXHIBIT 7
DATE 1/29/15
HB 255

JUDITH BASIN COUNTY JUSTICE OF THE PEACE

Judge Larry Carver
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To: The 2015 House Judiciary Committee for the hearing on HB 255
RE: HB 255 – An requiring the disqualification of a judge for receiving a campaign contribution.

I apologize to the committee for not being able to be present at the committee hearing for House Bill 255. A busy court schedule would not allow a personal appearance today. I am the chairman of the Legislative Committee for the Montana Magistrates Association which is the association of all the Limited Courts, Justice Courts, Municipal Courts and City Courts in the State of Montana.

Montana Law has a specific set of rules and a statutory procedure for the disqualification of Limited Court Judges. It is enumerated in Title 3, chapter 1 part 8. Specifically 3-1-803. Pursuant to this statute, an unrepresented litigant or an attorney must file an affidavit alleging **PERSONAL BIAS OR PREJUDICE** against the presiding Judge. After the filing of such affidavit, this matter is set for a disqualification hearing before a neutral Judge, who is assigned to hear this proceeding. The burden of proof is upon the litigant or the attorney to provide facts at the hearing that the presiding judge has a personal bias or a prejudice against the litigant who has filed the complaint.

The passage of this bill could have a significant effect upon this procedure and the court system. An unhappy litigant or an unhappy attorney could simply pay a one time \$35.00 contribution to a campaign fund and remove a Limited Court Judge from hearing any of their cases for 4 years or a District Court Judge for 6 years. If this contribution happens to be given from an unhappy Prosecutor or an unhappy Regional Director of the Public Defenders Office, 35 dollars could remove the judge from hundreds of cases during his 4 or 6 year term. Finding enough substitute judges would have a significant effect on the procedures and processes in place to provide speedy and effective remedies to litigants. Also, providing funding to pay these substitutes would have a significant fiscal impact on County Tax payers and County government.

For this reason, the Montana Magistrates respectfully requests that this committee vote NO for the passage of HB 255.

Respectfully submitted by Larry Carver, Justice of the Peace


Montana Magistrates Association, Chairman Legislation